

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
AT&T Corporation	)	IC Nos. 02-S68126
	)	02-S71446
Complaints Regarding	)	02-S74568
Unauthorized Change of	)	02-S76429
Subscriber's Telecommunications Carrier	)	02-S76600
	)	02-S76968
	)	02-S76982
	)	02-S76991
	)	02-S77080
	)	02-S77412
	)	02-S78951
	)	02-S79047
	)	02-S79519
	)	02-S79547
	)	02-S79756
	)	02-S80192
	)	02-S80465
	)	02-S80554
	)	02-S80821
	)	02-S81263
	)	02-S81590
	)	02-S82025
	)	02-B0016043
)	
)	

ORDER

Adopted: May 23, 2003

Released: May 29, 2003

By the Deputy Chief, Consumer & Governmental Affairs Bureau:

1. In this Order, we consider the complaints filed by Complainants¹ alleging that AT&T Corporation (AT&T) changed Complainants' telecommunications service providers without obtaining authorization and verification from Complainants' in violation of the Commission's rules.² We conclude that AT&T's actions did not result in an unauthorized

¹ See Appendix A.

² See 47 C.F.R. §§ 64.1100 – 64.1190.

change in Complainants' telecommunications service providers and we deny Complainants' complaint.

2. In December 1998, the Commission released the *Section 258 Order* in which it adopted rules to implement Section 258 of the Communications Act of 1934 (Act), as amended by the Telecommunications Act of 1996 (1996 Act).³ Section 258 prohibits the practice of "slamming," the submission or execution of an unauthorized change in a subscriber's selection of a provider of telephone exchange service or telephone toll service.⁴ In the *Section 258 Order*, the Commission adopted aggressive new rules designed to take the profit out of slamming, broadened the scope of the slamming rules to encompass all carriers, and modified its existing requirements for the authorization and verification of preferred carrier changes. The rules require, among other things, that a carrier receive individual subscriber consent before a carrier change may occur.⁵ Pursuant to Section 258, carriers are absolutely barred from changing a customer's preferred local or long distance carrier without first complying with one of the Commission's verification procedures.⁶ Specifically, a carrier must: (1) obtain the subscriber's written or electronically signed authorization in a format that meets the requirements of Section 64.1130 authorization; (2) obtains confirmation from the subscriber via a toll-free number provided exclusively for the purpose of confirming orders electronically; or (3) utilize an independent third party to verify the subscriber's order.⁷

3. The Commission also has adopted liability rules. These rules require the carrier to absolve the subscriber where the subscriber has not paid his or her bill. In that context, if the subscriber has not already paid charges to the unauthorized carrier, the subscriber is absolved of liability for charges imposed by the unauthorized carrier for service provided during the first 30

³ 47 U.S.C. § 258(a); Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996); *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Second Report and Order and Further Notice of Proposed Rule Making, 14 FCC Rcd 1508 (1998) (*Section 258 Order*), *stayed in part*, *MCI Company v. FCC*, No. 99-1125 (D.C. Cir. May 18, 1999); First Order on Reconsideration, 15 FCC Rcd 8158 (2000); *stay lifted*, *MCI Company v. FCC*, No. 99-1125 (D.C. Cir. June 27, 2000); Third Report and Order and Second Order on Reconsideration, 15 FCC Rcd 15996 (2000), Errata, DA No. 00-2163 (rel. Sept. 25, 2000), Erratum, DA No. 00-2192 (rel. Oct. 4, 2000), Order, FCC 01-67 (rel. Feb. 22, 2001); *reconsideration pending*. Prior to the adoption of Section 258, the Commission had taken various steps to address the slamming problem. *See, e.g., Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, Report and Order, 10 FCC Rcd 9560 (1995), *stayed in part*, 11 FCC Rcd 856 (1995); *Policies and Rules Concerning Changing Long Distance Carriers*, CC Docket No. 91-64, 7 FCC Rcd 1038 (1992), *reconsideration denied*, 8 FCC Rcd 3215 (1993); Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83-1145, Phase I, 101 F.C.C.2d 911, 101 F.C.C.2d 935, *reconsideration denied*, 102 F.C.C.2d 5034 (1995). 47 U.S.C. § 258(a).

⁵ *See* 47 C.F.R. § 64.1120.

⁶ 47 U.S.C. § 258(a).

⁷ *See* 47 C.F.R. § 64.1120(c). Section 64.1130 details the requirements for letter of agency form and content for written or electronically signed authorizations. 47 C.F.R. § 64.1130.

days after the unauthorized change.⁸ Where the subscriber has paid charges to the unauthorized carrier, the Commission's rules require that the unauthorized carrier pay 150% of those charges to the authorized carrier, and the authorized carrier shall refund or credit to the subscriber 50% of all charges paid by the subscriber to the unauthorized carrier.⁹ Carriers should note that our actions in this Order do not preclude the Commission from taking additional action, if warranted, pursuant to Section 503 of the Act.¹⁰

4. We received Complainants' complaints alleging that Complainants' telecommunications service providers had been changed without Complainants' authorization.¹¹ Pursuant to Sections 1.719 and 64.1150 of our rules,¹² we notified AT&T of the complaints and AT&T responded.¹³ We find that AT&T has produced clear and convincing evidence of a valid authorized carrier change by Complainants.¹⁴ Therefore, we find that AT&T's actions did not result in an unauthorized change in Complainants' telecommunications service.¹⁵

5. Accordingly, IT IS ORDERED that, pursuant to Section 258 of the Communications Act of 1934, as amended, 47 U.S.C. § 258, and Sections 0.141, 0.361 and 1.719 of the Commission's rules, 47 C.F.R. §§ 0.141, 0.361, 1.719, the complaints filed by Complainants against AT&T Corporation ARE DENIED.

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⁸ See 47 C.F.R. §§ 64.1140, 64.1160. Any charges imposed by the unauthorized carrier on the subscriber for service provided after this 30-day period shall be paid by the subscriber to the authorized carrier at the rates the subscriber was paying to the authorized carrier at the time of the unauthorized change. *Id.*

⁹ See 47 C.F.R. §§ 64.1140, 64.1170.

¹⁰ See 47 U.S.C. § 503.

¹¹ See Appendix A.

¹² 47 C.F.R. § 1.719 (Commission procedure for informal complaints filed pursuant to Section 258 of the Act); 47 C.F.R. § 64.1150 (procedures for resolution of unauthorized changes in preferred carrier).

¹³ See Appendix A.

¹⁴ See 47 C.F.R. § 64.1150(d).

¹⁵ If Complainant is unsatisfied with the resolution of this complaint, Complainant may file a formal complaint with the Commission pursuant to Section 1.721 of the Commission's rules, 47 C.F.R. § 1.721. Such filing will be deemed to relate back to the filing date of Complainant's informal complaint so long as the formal complaint is filed within 45 days from the date this order is mailed or delivered electronically to Complainant. See 47 C.F.R. § 1.719.

Nancy A. Stevenson, Acting Deputy Chief
Policy Division
Consumer & Governmental Affairs Bureau

INFORMAL COMPLAINT NUMBERS	DATE OF COMPLAINT	DATE OF RESPONSE
02-S68126	February 20, 2002	April 11, 2002
02-S71446	March 8, 2002	May 28, 2002
02-S74568	May 8, 2002	July 22, 2002
02-S76429	March 11, 2002	July 9, 2002
02-S76600	May 28, 2002	July 23, 2002
02-S76968	June 11, 2002	September 3, 2002
02-S76982	June 11, 2002	September 3, 2002
02-S76991	March 27, 2002	August 22, 2002
02-S77080	May 22, 2002	August 23, 2002
02-S77412	June 6, 2002	August 26, 2002
02-S78951	June 10, 2002	September 29, 2002
02-S79047	June 28, 2002	September 24, 2002
02-S79519	July 22, 2002	September 24, 2002
02-S79547	July 18, 2002	September 20, 2002
02-S79756	June 17, 2002	October 11, 2002
02-S80192	August 1, 2002	October 24, 2002
02-S80465	September 19, 2002	October 29, 2002
02-S80554	September 11, 2002	October 24, 2002
02-S80821	September 26, 2002	November 14, 2002
02-S81263	August 15, 2002	December 13, 2002

02-S81590	November 15, 2002	January 10, 2003
02-S82025	December 11, 2003	February 24, 2003
02-B0016043	December 12, 2002	February 26, 2003